parative negligence, in relation to injuries incurred by employees of interstate railway carriers, was held to be constitutional in *Mondou* v. *New York, N. H. & H. R. Co.* (1912), 32 Sup. Ct. 169. See NOTE AND COMMENT, p. 478 *ante*.

COMMERCE—STATE REGULATION—INTOXICATING LIQUORS—CARRIER'S REFUSAL TO ACCEPT.—A brewing company in Indiana offered a shipment of liquor to the defendant carrier for delivery in Kentucky. It was consigned to localities in that State where local option prohibitory laws prevailed, making transportation of such shipments unlawful. The defendant carrier, incorporated under the laws of Kentucky, refused to accept the shipment. *Held*, that the shipment was interstate commerce; that the statute of a State as applied to such interstate shipment is an unlawful regulation of commerce and of no force; that the carrier, not being bound by such law, must accept the shipment. *Louisville & Nashville Ry. Co.* v. *F. W. Cook Brewing Co.* (1912), 32 Sup. Ct. 189.

The decision, while a logical development, *Lord* v. *Steamship Co.*, 102 U. S. 541, 26 L. Ed. 224; *Hanley* v. *Kansas City Ry. Co.*, 187 U. S. 617, 47 L. Ed. 333; *Grimes* v. *Eddy*, 126 Mo. 168, 26 L. R. A. 638; *Selvege* v. *St. L. etc. Ry.*, 135 Mo. 163, 36 S. W. 652; is yet not in keeping with the spirit of the Wilson Act. The States, under their police power, could always constitutionally prohibit certain sales of liquor within their borders. *Mugler* v. *Kansas*, 123 U. S. 623. But prior to the so-called Wilson Act, this power did not extend to a sale by an importer while in the original package. *Brown* v. *Maryland*, 12 Wheat. 419; *Leisy* v. *Hardin*, 135 U. S. 100, 34 L. Ed. 128. The Wilson Act modified the "original package" doctrine, but *only* as to commerce in liquor. *Heyman* v. *Southern Ry. Co.*, 203 U. S. 270. It did not affect the power of Congress over interstate commerce as such. It simply permits the State to exercise its police powers, over the *liquor* commerce, immediately upon the "arrival" of the goods in the hands of any citizen of the legislating State, and even while in the original package. *In re Rahrer*, 140 U. S. 545, 35 L. Ed. 572; *Meyer, Jossen & Co.* v. *Mobile*, 147 Fed. 843; *Cantini* v. *Tillman*, 54 Fed. 969. The "arrival" point is not reached however, until the transit is ended. This is upon delivery to the consignee. Whether arrival at destination and the lapse of sufficient time after proper notice to consignee constitutes "arrival," is not determined. *Heyman* v. *Southern Ry. Co.*, 203 U. S .270; *Westheimer & Sons* v. *Habinck*, 131 Iowa 643; 9 CUR. LAW 584-7.

CONSTITUTIONAL LAW — EQUAL PROTECTION — DISCRIMINATION IN LICENSE TAX.—The State of Montana passed a law taxing laundries, exempting from its scope all steam laundries, and all women engaged in the laundry business where not more than two women were employed. It was attacked as discriminating in such a way, between instrumentalities employed in the same business and between women and men, as to deny the equal protection of the law to men operating hand laundries. *Held*, (Mr. Justice LAMAR dissenting) to be a reasonable basis of distinction and not in violation of the Fourteenth Amendment of the Constitution of the United States. *Quong Wing* v. *Kirkendall* (1912), 32 Sup. Ct. 192.

The broad economic viewpoint of woman's position, as recognized in *Muller* v. *Oregon*, 208 U. S. 412, is, in this case, adapted and applied to license

taxation. The Fourteenth Amendment was not intended to prevent a State from changing its system of taxation in any proper and reasonable way with regard to exempting or taxing trades, professions or classes. *Bell's Gap Ry. Co.* v. *Pennsylvania,* 134 U. S. 232. As to every person in any one class, the amendment prohibits unreasonable discrimination. *Barbier* v. *Connolly,* 113 U. S. 27. The principal case now makes a further refinement by adopting the ideas of Mr. Justice BREWER, who said, "Differentiated * * * from the other sex, she (woman) is properly placed in a class by herself, and legislation designed for her protection may be sustained even when like legislation is not necessary for men and could not be sustained." *Muller* v. *Oregon,* 208 U. S. 412, 422. The discrimination based on the different methods of carrying on a laundry business is upheld as a reasonable distinction because "like the United States, although with more restriction and in less degree, a State may carry out a policy," favoring certain industries or forms of industry. Whether the effect of the law resulted in a discrimination against Chinese is not considered, not having been judicially brought before the court. For references on the general question, see 8 MICH. L. REV., 499, 9 MICH. L. REV. 434, *State* v. *Buchanan,* 29 Wash. 602, 2 WILLOUGHBY, "CONSTITUTIONAL LAW OF THE U. S.," pp. 881-890.

DAMAGES—INJURIES TO GROWING CROPS.—Plaintiff owned and cultivated land near a smelting plant belonging to the defendant. Sulphurous fumes from the smelter affected the plaintiff's crops throughout the growing season and so injured them as to greatly depreciate their market value. *Held,* the proper measure of damages under such circumstances is the difference between the market value of the crop at the time and place of injury and the value before the injury occurred; that this amount could best be ascertained by consideration of the following propositions, (1) the value at maturity of the probable crop had injury not occurred, (2) the value of the injured crop at that time less the expense of fitting for market the portion of the probable crop that did not mature, (3) the probability at the time of injury that amount under (1) would have been realized by the owner if the injury had not been inflicted, (4) the fact, if it be the fact, that the injury was inflicted some time before the maturity of the crop. *United States Smelting Co.* v. *Sisam* (1911), 191 Fed. 293.

The general rule as to the measure of damages for destruction of, or injury to, growing crops is the fair market value of the crop at the time and place of injury. *Smith* v. *Chicago etc. Ry. Co.,* 81 Neb. 186; *Colo. Con. L. & W. Co.* v. *Hartman,* 5 Colo. App. 150; *International etc. Ry. Co.* v. *Foster,* 45 Tex. Civ. App. 334, 100 S. W. 1017; 6 MICH. L. REV, 508; 6 AM. & ENG. ANN. CAS. 949. The principal case in effect follows this rule, but as pointed out by the court, the crop in question having been injured and not destroyed, "It is easy to announce the rule, but it is more difficult to determine what evidence shall be considered and what effect that evidence shall have in determining these values and the damage." Some courts obviate the difficulty by holding that the measure of damage is the difference between the market value at the maturity of the probable crop without injury and the value of the injured crop less the expense of fitting for market the portion of the prob-